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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,657	04/24/2001	Duncan M. Kitchin	INTL-0405-US (P8988)	6439
7590 10/31/2005			EXAMINER	
Timothy N. Trop TROP, PRUNER & HU, P.C. STE 100 8554 KATY FWY HOUSTON, TX 77024-1805			LEE, CHI HO A	
			ART UNIT	PAPER NUMBER
			2663	
DATE MAILED: 10/31/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/841,657

Applicant(s)

KITCHIN, DUNCAN M.

Examiner

Andrew Lee

Art Unit

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-5, 8, 18-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Newberg et al U.S. Patent Number 6,680,930.

Re Claims 1, 18, 19, 24, fig.3 teaches a base site (a wireless network hub) that includes wireless modem 308 (an interface) to transmit data to a mobile station 102 of fig. 1; further includes a Processor 302 (a controller) communicatively coupled to the 308 and functions in accordance to fig. 5, whereby upon reception of the application requirement step 500 from the mobile, the bandwidth manager reserve bandwidth on the channel 510 (transmit a first portion of the data using reserved bandwidth); step 516 determines additional bandwidth is required at the mobile (a bit rate change event) and New bandwidth request 518 to base site step 502 and base site determines whether additional bandwidth (unreserved bandwidth) is available step 504 and if available additional bandwidth (based on a determination of the channel requirement) is reserved 510 and transmitted 514 (a second portion of the data) (See col. 5, lines 40 ~ col. 6, lines 1-48).

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Re Claims 2, 3, 23, 25-28, refer to Claim 1, wireless network card (access point) transit in wireless medium to a wireless client and wired network.

Re Claims 4, 5, 20-22, 29, 30, refer to Claim 1, wherein the additional bandwidth is based on a new delay-sensitive application at the mobile 102 wherein the pre-selected bit rate is based on the application requirements.

Re Claim 8, refer to Claim 1, wherein system supports delay and non-delay sensitive applications.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6, 7, 9-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newberg et al U.S. Patent Number 6,680,930 in view of U.S. Patent Number 6,751,477.

Re Claim 9, Newberg determines the channel requirements for determining the bandwidth. Newberg fails to explicitly teach determining "a drop in QoS". However, '477 patent teaches a QoS Monitors that monitor certain statistics of the IP network. One skilled in the art would have been motivated to include a QoS Monitor into the base site of Newberg to monitor for QoS parameter in determining a reliable bandwidth to the mobile. Therefore, it would have been obvious to one ordinary skilled to combine the teaching of '477 patent into the teaching of Newberg.

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Re Claims 6, 7, 10, refer to Claim 1, Newberg et al fails to explicitly teach "detecting a reduced transfer rate". However, '477 patent teaches a QoS Monitor that detects, among other things, packet loss wherein packet loss is indicative of reduce transfer rate. One skilled in the art would have been motivated to determine the QoS parameter for the established connection to determine reliable throughput, i.e., determine a new bandwidth.

Re Claims 11-15, refer to Claim 10, wherein additional bandwidth is enable by process 302 of fig. 3 Newberg.

Re Claims 16, 17, refer to Claim 10, processor supports delay and non-delay sensitive applications (priority data).

Response to Arguments

5. Applicant's arguments filed 8/16/05 have been fully considered but they are not persuasive.

Re Claim 18, Applicant argues that Newberg fails to teach, "receiving a first bandwidth reservation for transferring data at a pre-selected rate".

Examiner respectfully disagrees.

When a "New bandwidth request" is received, the request bandwidth is "a pre-selected rate".

Furthermore, Claim 1 as amended does not require, "receiving a first bandwidth reservation for transferring data at a pre-selected rate".

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Lee whose telephone number is 571-272-3130. The examiner can normally be reached on Monday to Friday from 8:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AI

10/25/05

ANDY LEE
PATENT EXAMINER

